

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

Amendment of Section 2.106 of the  
Commission's Rules to Allocate  
Spectrum at 2 GHz for Use by the  
Mobile-Satellite Service

ET Docket No. 95-18

**COMMENTS OF SBC COMMUNICATIONS, INC.**

**I. INTRODUCTION**

SBC Communications, Inc. on behalf of its affiliates ("SBC")<sup>1</sup> hereby comments on the Third Notice of Proposed Rulemaking in the above-captioned proceeding. In this proceeding the Commission proposes to reallocate the 2110-2150 MHz band for Fixed and Mobile Services for assignment by competitive bidding.<sup>2</sup> In addition, the Commission has reaffirmed its reallocation of the 2165-2200 MHz bands to Mobile-Satellite Service ("MSS"), effective January 1, 2000.<sup>3</sup> Consequently, the NPRM

<sup>1</sup> SBC Communications Inc. ("SBC") is the parent/holding company of various subsidiaries conducting business under federal licenses. These subsidiaries include Southwestern Bell Telephone Company ("SWBT"), Pacific Bell, Nevada Bell, Southern New England Telephone Company and various wireless carriers including Southwestern Bell Mobile Systems, Inc. ("SBMS"), Southwestern Bell Wireless Inc. ("SWBW") and Pacific Bell Mobile Services ("PBMS"). The abbreviation "SBC" shall be used herein to include each of these subsidiaries as appropriate in the context.

<sup>2</sup> In the matter of Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2GHz for Use by the Mobile-Satellite Service, ET Docket No. 95-18, Memorandum Opinion and Order and Third Notice of Proposed Rulemaking and Order, released November 27, 1998, ("NPRM").

<sup>3</sup> Id. at para. 1.

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also contains a proposal for the relocation of Fixed Services (“FS”) in these bands.<sup>4</sup> Several of SBC’s affiliates have point-to-point microwave licenses in these bands which would be subject to relocation. The following comments address SBC’s concerns with the reallocation of the 2110-2150 MHz band and with the proposed relocation policy.

**II. THE REALLOCATION OF THE 2110-2150 MHz BAND SHOULD BE DONE IN CONJUNCTION WITH OTHER REALLOCATIONS TO MAXIMIZE THE VALUE OF THE SPECTRUM.**

The Commission proposes to reallocate the 2110-2150 MHz band for Fixed and Mobile Services for assignment for competitive bidding and requests comments on that proposal.<sup>5</sup>

As the Commission notes, pursuant to the Budget Act of 1997, the Commission is specifically directed to reallocate the 40 MHz at 2110-2150 MHz for reassignment by auction by September 30, 2002.<sup>6</sup> SBC realizes that this deadline imposes some urgency on the reallocation decisions. However, SBC is concerned about the scarcity of paired frequencies in the spectrum that will be coming available in the next few years. A 40 MHz block itself has far less value than it would if it were paired with other frequencies.

For this reason, SBC recommends that the Commission delay its decision on reallocation and auction of the 2110-2150 block until decisions relating to other spectrum coming up for reallocation have been considered in conjunction with it. Specifically, pursuant to the Budget Act, the Commission was directed to reallocate 15 MHz from spectrum at 1990-2110 MHz unless the President determines that a reallocation of an alternate 15 MHz would better serve the public interest.<sup>7</sup> The President has informed the Commission through a letter from the

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<sup>4</sup> Id. at paras. 47-51.

<sup>5</sup> Id. at para. 30.

<sup>6</sup> Id. para. 7.

<sup>7</sup> Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stct. 251 §3002(c) (1997).

National Telecommunications and Information Administration that it is exercising its option to identify an alternative 15 MHz of spectrum.<sup>8</sup> Although that spectrum must be auctioned by September 30, 2002 also, identification of the spectrum and recommended use has not yet occurred.

There is also spectrum at 1710-1755 MHz that is available for reallocation as a part of the Congressional directive in the Omnibus Budget and Reconciliation Act of 1993 to identify 200 MHz of spectrum allocated to the federal government for reallocation.<sup>9</sup>

SBC urges the Commission to avoid reallocating these blocks on a piecemeal basis, which is what this NPRM appears to contemplate. A complete spectrum plan that considers all three blocks and recognizes the value of paired frequencies would enhance the value of spectrum being reallocated. Consequently, SBC recommends that the Commission delay reallocation of the 2110-2150 MHz block of spectrum until it has time to carefully consider how best to reallocate these other bands in order to maximize the value of all three blocks.

**III. THE RELOCATION POLICY ADOPTED IN THE EMERGING TECHNOLOGIES PROCEEDING AND REFINED IN THE MICROWAVE COST-SHARING PROCEEDING IS APPROPRIATE WITH MINOR CHANGES.**

In a Petition for Reconsideration, the MSS Coalition requested that MSS not be required to bear the costs of relocation of FS licensees.<sup>10</sup> SBC is pleased that the Commission rejected this Petition and reaffirmed that its policies regarding relocation adopted in the Emerging Technologies proceeding apply to all the allocations and reallocations undertaken in

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<sup>8</sup> NPRM, para. 7.

<sup>9</sup> Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, §6001, (1993), see also, In the Matter of Allocation of Spectrum Below 5MHz Transferred from Federal Gov't Use, ET Docket No. 94-32 11 FCC Rcd 13657 (1996).

<sup>10</sup> NPRM, para. 12.

this proceeding.<sup>11</sup> SBC continues to be concerned about the diminishing spectrum available for fixed services. Current proceedings may limit the availability of spectrum in the 11 and 18 GHz bands for fixed services.

A. The Sunset Rule Should Allow For Some Automatic Extensions Of The Six Month Notice Period In Certain Circumstances.

After the ten year period during which the new licensee pays for the relocation of the incumbent expires, there is a six month notice requirement.<sup>12</sup> The new licensee must give the incumbent at least six months to vacate the spectrum. After the six month notice period expires, the incumbent must turn its license back to the Commission, unless the parties have entered into an agreement which allows the incumbent to continue to operate on a mutually agreed upon basis.<sup>13</sup> If the parties cannot agree on a schedule or an alternative arrangement, a formal request for extension may be filed with the Commission.<sup>14</sup>

Extensions will only be granted if the incumbent can demonstrate that it cannot relocate within the six month period and the public interest would be harmed if the incumbent is forced to terminate operations (e.g., “if public safety communications were disrupted.”)<sup>15</sup>

SBC realizes that the Commission has previously concluded that six months was reasonable because the incumbents have been on notice for ten years that they might be requested to move.<sup>16</sup> SBC has, in fact, already moved some operations and anticipates additional relocations at its own initiative and at the initiative of the new licensees. But in some locations,

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<sup>11</sup> Id. at para. 13.

<sup>12</sup> 47 CFR §101.79(a).

<sup>13</sup> Id.

<sup>14</sup> 47 CFR §101.79(b).

<sup>15</sup> Id.

<sup>16</sup> Amendment to the Commission’s Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95-157, RM-8643, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8825, para. 68.

such as the large remote areas that must be crossed in parts of California, Nevada and Texas, the 2 GHz links work exceedingly well for the terrain and are preferable both to other parts of the radio spectrum and non-radio alternatives. Therefore, it is reasonable to maintain those links and wait to see if a new licensee will receive any interference from the links. Some of the links are so remote, it is possible that interference will not be an issue for two decades or more, if ever. However, in the event they do cause interference, the six month period in some circumstances will be unworkable.

SBC is concerned about two different scenarios. The first one arises because of the need for government approvals, other than the FCC's, in the relocation process. For example, Nevada Bell uses some very long point-to-point microwave hops across the desert. Relocating these links will generally require one or more intermediate hops and will necessitate negotiation with either the Bureau of Land Management or another federal agency, such as the National Park Service. Such negotiations take many levels of approval and often take many months to complete. For this reason, SBC recommends that when an incumbent can demonstrate in a request for extension that the relocation involves negotiation with a state or federal agency, the incumbent should be automatically granted an additional six months, so that the incumbent has a total of one year to complete the relocation.

The second scenario that requires additional time occurs when international coordination is involved. For example, SWBT has some very long microwave links near the border with Mexico. Any relocation of those links would require approximately eighteen months due to the time associated with international coordination. For this reason, SBC recommends that when an incumbent can demonstrate in a request for extension that the relocation involves international coordination, the incumbent should automatically be granted an additional twelve months for a total of eighteen months.

These two narrow modifications to the rule relating to extensions to the six month notice period should not apply to many relocations. But for those that involve these special circumstances, the modifications will assist the Commission in processing the extension requests by creating a definite standard to meet. It will also assist the incumbent by allowing official recognition of the difficulty of completing a relocation quickly when state or federal agencies or foreign governments must provide approvals.

B. The Date The MSS Licenses Are Issued Should Initiate the Voluntary Negotiation Period.

The Commission requests comment on what date to begin the period for voluntary relocation as well as the date to commence the ten year period during which the incumbents receive compensation.<sup>17</sup> SBC believes that the date on which the MSS licenses are granted should be the date both time periods begin to run.

IV. A PRIOR COORDINATION PROCESS SHOULD BE REQUIRED BEFORE MSS LICENSEES INITIATE SERVICE.

The MSS Coalition requested a clarification concerning the Commission's statement that MSS and FS licensees may share spectrum so long as "harmful interference" does not result because at another point the Commission referred to "unacceptable interference."<sup>18</sup> As the MSS Coalition pointed out "harmful interference" is defined in the FCC rules but "unacceptable interference" is not.<sup>19</sup> The Commission clarified that the "harmful interference" standard defined in the Rules applied in determining the need to relocate any incumbent licensee in the frequency bands subject to the its Emerging Technologies policies.<sup>20</sup> While that

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<sup>17</sup> NPRM, para. 50.

<sup>18</sup> NPRM, para. 28.

<sup>19</sup> Id.

<sup>20</sup> Id.

clarification is helpful there is another issue that needs to be addressed to alleviate problems with interference between the incumbents and the new licensees.

SBC recommends that the Commission put a prior coordination notice ("PCN") process in place to require that a PCN must be done by the MSS licensee prior to operation. This would reduce the problem of having to deal with interference problems at the same time a relocation is being negotiated. It also has the advantage of allowing users of the spectrum to review all interference calculations and estimates and providing a point of contact in the event of an interference problem. The FCC rules already contain a PCN process that PCS licensees must use prior to initiating operations.<sup>21</sup> The requirements of Section 24.237 should be used as a model for a similar PCN process with respect to the initiation of MSS operations.

## **V. CONCLUSION**

SBC respectfully requests that the Commission delay the reallocation of the 2110-2150 MHz band until it has considered how the reallocation best fits in with the reallocation of the 1710-1755 MHz band and the 15 MHz of government spectrum from an unspecified part of the band.

SBC further requests that the Commission create two narrow modifications to the six-month notice period as outlined above. Such action would remove uncertainty regarding the need to surrender a license and terminate services in those unusual circumstances where it would be virtually impossible to complete a relocation in six months because of the government approvals involved.

Finally, SBC requests that the Commission require the MSS licensees to follow a prior coordination process before initiating operations.

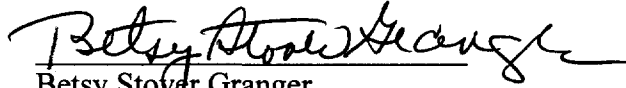
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<sup>21</sup> 47 CFR §24.237.

Respectfully submitted,

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